

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MASON TENDERS' DISTRICT COUNCIL
WELFARE FUND, PENSION FUND, ANNUITY
FUND, AND TRAINING FUND, and DOMINICK
GIAMMONA, as FUNDS' CONTRIBUTIONS/
DEFICIENCY MANAGER,

Plaintiffs,

- against -

K.D. HERCULES, INC., K.D. HERCULES GROUP
INC., K.D. HERCULES GROUP INC. d/b/a KDH
GROUP, and KYRIACOS DIAKOU,

Defendants.
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Docket No.: 20-CV-02025 (VEC)

CONSENT JUDGMENT

WHEREAS, Plaintiffs, the Mason Tenders' District Council Welfare Fund, Pension Fund, Annuity Fund, and Training Fund, and Dominick Giammona, as Funds' Contributions/Deficiency Manager (collectively, the "Funds"), commenced the above-captioned action (the "Action") against Defendants K.D. Hercules, Inc., K.D. Hercules Group Inc., K.D. Hercules Group Inc. d/b/a KDH Group, and Kyriacos Diakou, under the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), 29 U.S.C. § 1001, *et seq.*, and the Labor-Management Relations Act of 1947, 29 U.S.C. § 185, to recover fringe benefit contributions, dues checkoffs, Political Action Committee ("PAC") contributions, imputed audit costs, plus liquidated damages, interest, and reasonable attorneys' fees, and other costs and disbursements due and owing to the Funds pursuant to the applicable collective bargaining agreement, the Fund's trust agreements, and applicable law;

WHEREAS, the Funds, K.D. Hercules, Inc., K.D. Hercules Group Inc., and Kyriacos Diakou agree that, to minimize further legal fees and costs and the additional expenses that would necessarily be incurred in continued litigation, it is in the best interests of the Funds and K.D.

Hercules, Inc., K.D. Hercules Group Inc., and Kyriacos Diakou to resolve the claims asserted against K.D. Hercules, Inc., K.D. Hercules Group Inc., and Kyriacos Diakou on the terms of this Consent Judgment; and

WHEREAS, the persons signing on behalf of the Funds and K.D. Hercules, Inc., K.D. Hercules Group Inc., and Kyriacos Diakou, respectively, represent and warrant that they are authorized to execute this Consent Judgment and by their signatures bind the Funds and K.D. Hercules, Inc., K.D. Hercules Group Inc., and Kyriacos Diakou, respectively, to all the terms of this Consent Judgment; and

WHEREAS, K.D. Hercules, Inc., K.D. Hercules Group Inc., and Kyriacos Diakou, after due consideration and having read and been fully advised of its contents, acknowledges its indebtedness to the Funds as described below and have consented to the entry of this Consent Judgment; and

WHEREAS, upon consideration of the record herein, and as agreed to by the Funds and K.D. Hercules, Inc., K.D. Hercules Group Inc., and Kyriacos Diakou, the Court finds that it has jurisdiction to enter this Consent Judgment.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

1. Judgment is entered in favor of Plaintiffs, Mason Tenders' District Council Welfare Fund, Pension Fund, Annuity Fund, and Training Fund, and Dominick Giammona, as Funds' Contributions/Deficiency Manager and against Defendants, K.D. Hercules, Inc., K.D. Hercules Group Inc., and Kyriacos Diakou in the liquidated amount of \$528,352.09, representing \$406,684.89 as a result of the audit of K.D. Hercules, Inc.'s books and records covering the period

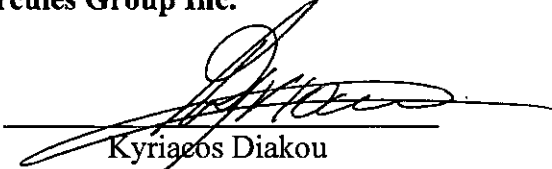
June 1, 2015 through August 26, 2018, and \$121,667.20 as a result of the shop steward reports covering the period August 27, 2018 through June 30, 2019.

2. This Consent Judgment will inure to the benefit of the Funds and be binding upon K.D. Hercules, Inc., K.D. Hercules Group Inc., and Kyriacos Diakou, and each of its administrators, affiliates, successors and assigns; and

3. The Court will retain jurisdiction over the Action for the purpose of enforcing this Consent Judgment.

Dated: October 30, 2020

**Kyriacos Diakou in his individual capacity and
on behalf of K.D. Hercules, Inc. and K.D.
Hercules Group Inc.**


Kyriacos Diakou

CONSENTED TO BY COUNSEL:

Dated: October 30, 2020

PROSKAUER ROSE LLP

By: 

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Counsel for the Plaintiffs

Dated: October 30th, 2020

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*Counsel for Defendants K.D. Hercules, Inc., K.D.
Hercules Group Inc., and Kyriacos Diakou*

SO ORDERED.

Dated: November 3, 2020



VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE